

## Summary for March 15 Water Quality Partnership Meeting

### 1. Stormwater industrial/construction permit appeal – Melodie Selby

The appeals of the construction and industrial permits were discussed. The presentation is available on our web site at

[http://www.ecy.wa.gov/programs/wq/partnership/03\\_15\\_01/index.html](http://www.ecy.wa.gov/programs/wq/partnership/03_15_01/index.html).

Ecology is attempting to be prepared for a wide variety of outcomes. Several members questioned where they could get information on the appeals.

The cases were filed with the Pollution Control Hearings Board (PCHB) and listed as *Puget Soundkeeper Alliance et al. v. Ecology*, P 00-173 (construction permit) and P 00-174 (industrial permit). Inquiries about these appeals and requests for copies should be made directly to the PCHB: Environmental Hearings Office - Tracey Johnson at 360-459-6327 or email Tracey Johnson at

<mailto:traceyj@eho.wa.gov>

General information about hearings boards and filings for recent months are available at the Environmental Hearings Office web page <http://www.eho.wa.gov>.

Ecology has a web page that includes basic information on the appeal. This page will be updated when major changes occur.

[http://www.ecy.wa.gov/programs/wq/stormwater/construction/appeal\\_info.html](http://www.ecy.wa.gov/programs/wq/stormwater/construction/appeal_info.html)

### 2. Report on water reuse program – Kathy Cupps

(presentation is on our website at:

[http://www.ecy.wa.gov/programs/wq/partnership/03\\_15\\_01/index.html](http://www.ecy.wa.gov/programs/wq/partnership/03_15_01/index.html).)

Kathy presented an informational overview of the status of implementation of reclaimed water program in Washington including: interim and final standards, planning requirements, permit requirements and responsibilities, water rights issues, financial assistance, and the public health and use area requirements. Also discussed were the funded demonstration projects and other projects in operation; under construction; or in design, planning, or feasibility stages within the state. Kathy also provided copies of the program report to the Legislature.

### 3. Effluent limits on listed water bodies – Gary Bailey

Gary Bailey presented the options under consideration by Ecology for permitting existing discharges to waterbodies listed on the 303(d) list. EPA region IX and EPA HQ have developed draft papers on the same issue.

Much of the discussion centered on the water quality standards and different approaches for dealing with different types of pollutants. It was suggested that the flow chart shown for option two be developed individually for each class of pollutants, and (in particular) a specific process should be developed for temperature.

#### 4. (a) Regional temperature workshop – Dave Peeler

There was quite a discussion about the regional temperature workshop and proposals with concern expressed for WA getting out in front. It was suggested we do a gap analysis to see where the ESA rules aren't doing the job and only addressing WQ standards in the gap. The group seemed to agree that that wasn't really an option.

#### 4. (b) Water quality standards schedule update and implementation of use-based standards – Dave Peeler

##### **Standards and Implementation**

Handouts – two focus sheet drafts (one on implementation of the standards, one for use-based), and a revised schedule for the standards, also posted on website at:

[http://www.ecy.wa.gov/programs/wq/partnership/03\\_15\\_01/index.html](http://www.ecy.wa.gov/programs/wq/partnership/03_15_01/index.html).)

- (1) Concerns were raised over the issue of doing a cost/benefit analysis on the rule besides the SBEIS. Ann G. indicated interest (with others agreeing) in including the C/B documentation in the public review process. There was also agreement on 1) wanting to know who had commented on the standards, 2) having a summary of all the comments, and 3) knowing if any new data or discussions had been presented.
- (2) General implementation – the use-based table on page two covers only fresh water. Lincoln indicated that if Ecology did the same with marine, we'd find some inconsistencies that need to be straightened out.
- (3) Dave also told them that we have about six municipalities that are participating in a quick project on bacteria comparing the fecal and enterococci numbers from their different treatment processes.
- (4) Use based implementation – Dave explained again how each use protected under the current class system will continue to be protected in the same locations under the use based default when the standards first change. Any removal of use will require a UAA.

- (5) Bull trout – Dave explained that we intend to add bull trout use to some areas for spawning in the current rule revision but don't want to be too broad because it is harder to drop a use than to add.
- (6) This discussion also included concerns about the level of technical information needed to implement any of the proposals and how to better fit the rules to the variable natural conditions. They also raised the problem of acceptable protocol for surveying bull trout that is a needed tool for future UAAs.
- (7) They heartily recommended that those interested be invited to a joint discussion with the services and EPA on ways to pursue these and related questions. Ecology tentatively agreed to try to set that up.
- (8) UAA –High level of concern for our lack of experience with and clear guidance for doing UAAs since the proposed rules seem to pile a lot of eggs in that basket. Dave reminded them that the present class system carries the same requirement for UAAs and will be more difficult to do given the grouping of uses. However, the participants point was that the stakes are so much higher with the new standards.
- (9) Human Created Waters – There is still concern for the distinction between a conveyance and a water body particularly in light of recent court decisions. Participants would like some examples to help discern the differences. This may include a discussion of dams??....
- (10) TMDLs – A concern was also voiced on how we integrate natural conditions into the TMDL and allocations – cost vs real benefit.
- (11) A general concern was voiced for basing our WQ standards too heavily on ESA requirements....

## 5. 303(d) listing update – Nora Jewett

Nora went through the draft 303(d) listing policy focusing on the highlighted areas. In particular, it was announced that the listing would be based on existing water quality standards, not the proposed revisions.

There were questions or comments on the following:

- (1) TMDL schedules are confusing between the consent decree and the new rule. Dave indicated that we are talking to EPA to clarify the timing on the different listings.
- (2) Data Quality – Participants agreed that it is important to have samples be representative of the segment to be listed. There was quite a bit of

discussion about verifying the sample location and how it is representative and verifying the quality of the data gathered and the analysis done. They suggested that we add more detail on the process to evaluate data for meeting QA/QC and for being representative. Some of these concerns may be answered by the data submittal form that is still being developed.

- (3) Data Evaluation – Participants suggested that they would prefer that items 4 and 5 that deal with quantitation and detection limits use more standard terminology. Nora has made revisions to address this and related issues.
- (4) Bacteria sampling – Ecology proposes to allow grouping same season data separate from consecutive years. The issue was raised regarding sporadic sampling that skips a year and suggested that we look again at the requirement of consecutive years. Nora will be consulting with EAP to consider if Ecology needs to add something.
- (5) Listing Criteria - Only 1 sample for toxic pollutants: there is still concern over using just one violation to list although concerns seemed to lessen when we reminded them of the additional attention to data quality and minimum sample sizes.
- (6) Contaminated sediments – Nora reviewed the choice of using the ¼ grid and listing based on one sample point, or requiring three sample points before evaluating the data and bumping up to the original open water grid. The newly completed draft Appendix C for contaminated sediments proposes the ¼ grid and a single sample.
- (7) Criteria to Exclude – Ecology's discussion of natural conditions is unclear. The new draft makes some improvements.
- (8) Prioritization – There was some concern that Ecology wasn't elevating EPA's priorities for drinking water and ESA. Ecology will continue to provide EPA with our drafts for review.

## 6. Permit fee adjustments under I-601 – Megan

An announcement was sent out to the partnership asking for volunteers to work with the department on reviewing the fiscal growth factor and how that would be incorporated into the program. Ecology has received four nominations and will be setting up a meeting in the near future for the sub-committee.